

### **Applicant's Remarks**

Claim 11 has been amended herein to capitalize the first word in the claim.

Claims 24 and 25 have been added. Support for new claim 24 is in the original specification at page 17, lines 1-3 and in drawing FIG. 6. Support for new claim 25 is in the original specification at the last paragraph on page 19.

The Commissioner is hereby authorized to charge Deposit Account **500818** the \$ 18.00 fee for these added two dependent claims.

### **Claim Rejections under 35 USC §112**

The Office Action dated 4/13/04 indicates that claims 21-23 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant is grateful for this being pointed out, and has amended claims 21-23 herein to be dependent from claim 20, as these claims erroneously depended from claim 19. The phraseology "said interior volume" in claims 21-23 as originally filed referred to the "interior volume" in claim 20. Thus, the amendments to claims 21-23 are believed to remedy the issues associated with 35 USC 112.

### **Claim Rejections under 35 USC §102**

The Office Action dated 4/13/04 indicates that claim 18 is rejected under 35 USC §102(b) as being anticipated by Rhodes, US Patent # 4,358,866.

Applicant understands that according to MPEP 8<sup>th</sup> ed. ; §706.02 pp 700-21, col. 1, under the heading: DISTINCTION BETWEEN 35 U.S.C 102 AND 103 , that for anticipation under 35 USC 102 to be proper, *"the reference must teach every aspect of the claimed invention"*.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 18 under 35 USC §102(b) stated in the Office Action dated 4/13/04, because every feature of Applicant's invention is not taught in the '866 patent of Rhodes.

Specifically, Applicant's claim 18 has been amended herein to include the limitation that: the buoyant tabletop is connected to the planar framework by means of a vertical support, as set forth in the original specification in the first paragraph of page 16, especially at lines 10-15. Since all of the features of claim 18 as amended herein are not contained in the Rhodes reference, this reference is believed to be no longer applicable as grounds for rejection under 35 USC § 102, and Applicant accordingly respectfully requests reconsideration and withdrawal of the rejection of claim 18 under 35 USC § 102(b).

### **Claim Rejections under 35 USC § 103**

The 4/13/04 Office Action indicates that claim 19 is rejected under 35 USC § 103(a) as being unpatentable over Rhodes, stating:

"Rhodes, as set forth above, discloses all of the features claimed except for the use of an ensemble that sufficiently buoyant to float while disposed in a body of water and supporting a human mass of between 200 and 1000 pounds.

The use of a buoyant table and seating ensemble that is capable of supporting a specific human mass while disposed in a body of water would be considered by one of ordinary skill in the art to be a design choice based upon the desired number of persons to be seated and supported by said buoyant ensemble, and the anticipated average mass of each of the persons to be supported by said buoyant ensemble.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a buoyant table and seating ensemble that is capable of supporting a specific human mass in combination with the buoyant table and seating ensemble as disclosed by Rhodes for the purpose of providing a buoyant table and seating ensemble that is capable of supporting a specific number of persons and their weight while disposed in a body of water."

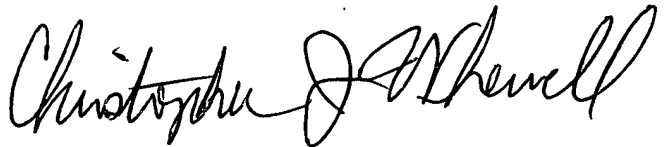
Applicant respectfully rebuts these assertions since claim 18, from which claim 19 depends, has been amended herein to include the limitation of the vertical support beam, as discussed on the previous page of this Response. Thus, claim 18 should be in condition for allowance. Since claim 19 depends from an allowable claim, it too defines patentable subject matter.

Importantly, none of the prior art of record teaches or even remotely suggests the use of a hollow table portion in a device subject to Applicant's disclosure, wherein the buoyancy of the device as a whole is provided for by the table top portion. In the Rhodes reference, buoyancy is provided by cylindrical sections of foam disposed about the framework of the Rhodes device at various locations. The tabletop in Rhodes is affixed to the planar framework. In Applicant's invention, the vertical support is hollow and admits water into its interior space, as do the remaining components of the frame. This has been found to increase the stability of the device

when submerged and to render it less sensitive and prone to the effects of small movements by persons sitting on the device, in sharp contrast to prior art devices, whose frames are full of air. Applicant respectfully submits that none of the prior art teaches or even remotely suggests using a hollow frame which takes on water, and a vertical support beam which is adapted to take on water, and wherein all of the buoyancy is provided by the tabletop portion. For these reasons, inter alia, Applicant respectfully submits that all of the pending claims in this application, as some have been amended herein, are now in condition for allowance.

Thank you for your considerations.

Respectfully submitted,

A handwritten signature in black ink, reading "Christopher J. Whewell". The signature is written in a cursive, flowing style with a large, prominent "C" and "W".

Christopher J. Whewell, Reg. 37,469